

retribution, which only leads to a fractured nation of people who literally come to hate each other.

Demanding that the other side in a debate on a topic, on a principle, agree with you on everything isn't unity. That is the arrogance of believing that any of us—that we are the sole holders of the truth: Anyone who agrees with us is good, and anyone who disagrees with us is wrong—not just wrong but, actually, evil.

The truth is that real unity isn't everyone having the same ideology or the same views or the same ideas. The unity we need actually comes from remembering—remembering who we actually are.

We Americans are not a racist or nativist people. We are a good and compassionate people who—in an overwhelming majority, they do not ask about race when they donate unwrapped toys so that no child has to wake up on Christmas morning with no present under the tree. They don't ask where a soldier's or sailor's or airman's or airwoman's parents came from when they put together and send care packages to them halfway around the world that they defend. We Americans are a bold people. In our veins literally runs the blood of pilgrims, of settlers, of exiles, of immigrants, of people who overcame slavery and segregation. We are the descendants of people who refused to surrender to fear and to abandon the hope of a better life.

We Americans are not the inheritors of an American dream that is some prize that we have to fight against one another for in some winner-take-all competition. We are the inheritors of an American dream that anyone can achieve without it being denied to someone else.

This is who we were when this country inspired and changed the world, and I hope this is who we will be again: a people who disagree over principles, who argue over policies—that has to happen because our Republic depends on every view having a voice and every voice having a place to be heard—but also a people who now understand that the choice before us is, we will either find a way to share a nation and a future, or we will all share the condemnation of history and the rebuke of Americans yet to come.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Oregon.

NOMINATION OF AVRIL DANICA HAINES

Mr. WYDEN. Mr. President, I rise to discuss the nomination of Avril Danica Haines to be Director of National Intelligence. I think my colleagues know that in a few minutes, the Senate will be voting on her nomination for this key position.

I briefly intend to outline where I think things stand on several sensitive issues with the 18 agencies that make up the intelligence community.

The Biden administration and Ms. Haines have an opportunity and a duty to turn the page on the coverups and lawlessness of the outgoing administration. That is why I asked Ms. Haines at her confirmation hearing whether she would abide by a law that I authored requiring an unclassified report on who was responsible for the killing of Washington Post journalist Jamal Khashoggi.

Jamal Khashoggi was a U.S. resident who was lured to the Saudi consulate in Istanbul and brutally murdered. Despite press stories that the Saudi Arabian leader was responsible for the killing, the Trump administration stayed mum, just stonewalled. For a whole year, the Trump administration just ignored the law that I wrote. So I asked Ms. Haines at our hearing whether she would follow the law and provide that unclassified report on who was responsible for Jamal Khashoggi's murder. Ms. Haines' response was straightforward. She said she would provide the report and comply with the law.

That statement, frankly, as modest as it was, was a sea change, colleagues, from the obstructionism and stonewalling of the Trump administration. The Trump administration had basically taken the position on laws like this transparency measure that it was kind of optional for the executive branch to comply.

So Ms. Haines' direct commitment to making that key report on the role the Saudi leaders in the murder of Jamal Khashoggi, in my view, was a real step forward for the rule of law, for accountability, and for human rights. And I will say as a journalist's kid that it was a real step forward for the freedom of the press everywhere.

The second subject I discussed with Ms. Haines was a particularly troubling aspect of the CIA's recent history. The CIA spied on the staff of the Senate Intelligence Committee when the staff was writing the torture report. As Deputy Director, Ms. Haines didn't hold anyone accountable. In my view, this abuse, this spying on the Senate Select Committee on Intelligence, basically, colleagues, turns the whole concept of oversight on its head. The U.S. Congress is supposed to do oversight on the executive branch and not visa-versa.

In response to my questions at the hearing, Ms. Haines admitted that the spying on the committee was wrong. She also agreed that she supported recommendations to expand accountability and would apply that expanded accountability to the intelligence community at large. And when she was asked about the CIA's baseless efforts to have committee staff prosecuted, she agreed that there ought to be guardrails against that happening again.

The third area I explored with the nominee was the need to rebuild trust in the intelligence community, which, in my view, requires a new focus on transparency and openness. For exam-

ple, there ought to be transparency so that the American people know what kind of surveillance is being conducted on them. The President of the Senate knows about the important vote we had on that amendment that I offered, the bipartisan amendment with Senator DAINES, because we ought to get transparency on whether the government is spying on the browsing history of the American people.

So this is really a critical and growing concern because we are all seeing data brokers and others selling people's data, and it is especially important that the American people are told if the government is using a legal loophole in the law in the warrant requirement of the Fourth Amendment. So I asked Ms. Haines about circumstances in which the government, instead of getting an order, just goes out and purchases the private records of Americans from these sleazy and unregulated commercial data brokers who are simply above the law—literally above the law. I believe this practice is unacceptable, and soon I will be introducing legislation to make it clear that the Fourth Amendment is not for sale.

Now, for Congress to tackle the topic, it is vitally important that there be an informed public debate about what the government is collecting right now and what it believes is a legal basis for the collection. And I was encouraged by how Ms. Haines responded to that question I asked. She said it was critical that the American people have an understanding of when and under what authorities the government is buying their private data.

Now, Ms. Haines made a number of other commitments related to transparency issues, many of which relate to a problem that I have come to describe as "secret law."

To my colleagues—I see our new Members here—people think when a law is written, they go to a coffee shop in Atlanta or Athens or Tucson, and they read about a law, and they think that is what the public law says. But secret law is based on the proposition that after the public law is put in place, the government often reinterprets the public law in secret and keeps the new interpretation secret under the pretext that this secrecy is just so key to keeping Americans safe.

The reality is that the interpretation of public law ought to be transparent and public as well, and it comes down to a very straightforward principle. I am a strong opponent of secret law. I am a strong supporter of transparency. And I intend to remind Director Haines what she told me just a few days ago about transparency and to push hard for the public release of as much information as possible when Americans deserve to see it, and they can see it when it is consistent with the safety and well-being of their households and their loved ones.

I also intend to push the Director of National Intelligence to fix a broken declassification system. For years, a

flood of new, digitally classified information has overwhelmed the obsolete, paper-based declassification system. This system is so out of whack that in order to get a document declassified, government officials actually have to walk the document around Washington from agency to agency. I actually said at our open hearing that I wonder if it is getting to the point that to get a document declassified, someone who works for the government has to pack a lunch, put the document in a big black briefcase, and then make their way all over the Nation's Capital.

So I have introduced with Senator MORAN bipartisan legislation to authorize the Director of National Intelligence to fix the problem. Ms. Haines has acknowledged the seriousness of the problem and the DNI's role in fixing it. It is my intent to make sure that this also is not allowed to just continue as business as usual.

Some of the starkest differences between the actions of the outgoing administration and the positions taken by Ms. Haines here a couple days ago relate to the crucial area of whistleblowers.

The outgoing administration broke the law when it withheld from Congress the complaint of the Ukraine whistleblower, the whistleblower who identified abuses that resulted in the first impeachment of Donald Trump. This lawlessness undermined both the whistleblower system and the independence of the Intelligence Community Inspector General, who had determined that the complaint ought to be submitted to Congress. Ms. Haines has been clear—the law requires that when the inspector general determines that a whistleblower complaint is urgent, the Director of National Intelligence cannot keep it from the Congress.

She made other commitments to whistleblowers. There are whistleblower protection laws—including some that have been approved by the Senate Intelligence Committee—that need to be enacted. There are procedures already required by law that the outgoing administration just didn't issue. They just stonewalled.

After all the damage done by the Trump administration with respect to trampling on the public's right to know and transparency where the information can be made public to the American people without compromising sources and methods, I will state that the Biden administration has a lot of work to do to repair and improve whistleblower protections. They are going to have a lot on their plate. The country has massive cyber vulnerabilities that we saw just a couple of weeks ago. There is more to do in terms of preventing foreign interference in our elections. We have to ensure that other surveillance programs provide security without sacrificing our constitutional rights.

I am going to close by way of saying I don't assume that I will always agree with the incoming administration.

That has been true for me with Democrats and Republicans on these issues. When we disagree, we will have a vigorous debate—as vigorous as when I disagreed with the Trump administration.

Ms. Haines as DNI and Ambassador Burns as CIA Director are beginning to shape up as a team that will be more open with the public, respect the law, and work with the Congress to repair the vast damage of the outgoing administration and respect what Ben Franklin talked about so many years ago. Liberty and security are not mutually exclusive. Smart policies get you both. Not-so-smart policies get you less of both. And that is our challenge.

So tonight, because of her answers to me at the open Intelligence hearing a couple of days ago, I want to say I am going to be supporting Ms. Haines' nomination to be Director of National Intelligence.

The PRESIDING OFFICER. The Senator from Virginia.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to executive session and the Intelligence Committee be discharged from further consideration of PN 78-10, the nomination of Avril Haines to be Director of National Intelligence; that the Senate proceed to its consideration; that there be 10 minutes of debate on the nomination equally divided in the usual form; that upon the use or yielding back of time, the Senate vote without intervening action or debate; and that, if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the nomination.

The legislative clerk read the nomination of Avril Danica Haines, of New York, to be Director of National Intelligence.

There being no objection, the committee was discharged and the Senate proceeded to consider the nomination.

Mr. VAN HOLLEN. Mr. President, I rise to support the nomination of Avril Haines to be the Director of National Intelligence. Ms. Haines is a historic nominee and would be the first woman to lead our intelligence community in this critical role. With a background at the Central Intelligence Agency and National Security Council, she understands the work of our intelligence professionals and the need to ensure a frank and nonpartisan process to deliver the information that underpins national security and foreign policy decisions.

Ms. Haines has applied her keen intellect to a number of pursuits, even including running a bookstore in Balti-

more and serving as a senior fellow at the Johns Hopkins University Applied Physics Laboratory. She has a firm commitment to her country and to encouraging others to serve, including as a member of the National Commission on Military, National, and Public Service.

After a tumultuous 4 years and a President who routinely scorned the work of our intelligence community, it is critical to restore professional leadership who will work with the administration and Congress, deliver honest assessments, and speak truth to power. Ms. Haines is the right woman for the job.

Mr. WARNER. Mr. President, I rise in strong support of the nomination of Avril Haines to be Director of National Intelligence.

Let me speak for a few moments, but I want to first of all thank members of particularly the Intelligence Committee on both sides of the aisle. My good friend, the Senator from Oregon, the Finance Committee chair, is someone who has deep and passionate concerns about the civil libertarian issues in our country. He is part of the yin; there is some yang on that committee. He raised I think important questions with the nominee, and I appreciate his courtesy in allowing this to move forward.

But I also want to thank, at least until tomorrow, the chairman of the committee, Senator RUBIO, and my Republican colleagues as well. When we discussed moving on this nomination in a very timely manner, the good Chairman RUBIO and Senator BURR worked with all the members of the committee. I thank my friend, the Senator from Idaho, for his courtesy as well.

I am very proud of the fact that the first nomination to be considered under the Biden administration is going to be Ms. Haines. I think that reflects the approach of the Intelligence Committee, and again, I see the chair of the committee on the floor now, and I want to thank him personally—Senator RUBIO—while he is on the floor for that courtesy.

I think part of the reason we were able to move so quickly is because this position is of such critical importance to the country that it is only appropriate that it be the first nomination to be confirmed by the Senate.

Avril is extraordinarily qualified for the role, having worked in national security for most of the last two decades. After working for several years at the State Department, Ms. Haines came here to the Senate, where she worked on the Foreign Relations Committee as a deputy chief counsel. Following another stint at State, Ms. Haines moved to the White House, where she served 3 years as a Deputy Assistant to the President and Deputy Counsel for National Security.

In June of 2013, President Obama chose Ms. Haines to serve as the Deputy Director of the CIA, making her